



SPW

Docket No.: 1614.1356

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Kaoru USUI

Serial No. 10/639,467

Group Art Unit: 3663

Confirmation No. 6110

Filed: August 13, 2003

Examiner: Eric L. Bolda

For: OPTICAL AMPLIFYING APPARATUS FOR WAVELENGTH DIVISION MULTIPLEXED SIGNALS (Title as Amended)

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is responsive to the Office Action mailed September 9, 2008, having a shortened period for response set to expire on October 9, 2008, the following remarks are provided.

I. Provisional Election of Claims Pursuant to 37 CFR 1.142

Applicants provisionally elect the Species III directed to Figs. 15 & 16, including claims 14-19. It is noted that claim 14 is generic to all three species.

II. Applicants Traverse the Requirement

Insofar as Species I-III are concerned, it is believed that claims 1-5 and 9-13 are so closely related to elected claims 14-19 that they should remain in the same application. The elected claims 14-19 are directed to Figs. 15 & 16 and claims 1-5 and 9-13 are drawn to Figs. 8, 10, 13, & 14. There have been no references cited to show any necessity for requiring restriction. The Examiner has not identified different classifications for the Species. It is believed, moreover, that evaluation of all sets of claims would not place an undue burden upon the Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited by the Groups I and II claims by filing a divisional application. Furthermore, the application has previously gone through three Requests for Continued Examination. The currently pending claims have already received both a non-final and final Office Action examining the claims.